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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Application of)

METROPOLITAN WASHINGTON AIRPORTS)
AUTHORITY)

CC Docket No. 95-149

Request for Declaratory Ruling Regarding)
Demarcation Point at Washington Dulles)
International Airport)

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COMMENTS OF GTE SOUTH INCORPORATED

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FEDERAL COMMUNICATIONS COMMISSION
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SUMMARY

The Metropolitan Washington Airports Authority ("MWAA") filed a Request for Declaratory Ruling on August 14, 1995, seeking the FCC to order GTE South Incorporated ("GTE") to establish a single demarcation point for all GTE's customers at Washington Dulles International Airport and contiguous land under MWAA control. On September 8, 1995, GTE filed a substantive opposition, and on September 18, 1995, MWAA replied.

These comments incorporate by reference GTE's September 8, 1995 opposition and emphasize the following points

- The Commission's Demarcation Point Rule at 47 C.F.R. § 68.3 (1994) vests discretion in GTE, not MWAA, to locate demarcation points, provided that GTE follows (as it has) a reasonable and non-discriminatory practice of locating them at the minimum point of entry.
- MWAA is not the relevant "premises owner" under the Demarcation Point Rule, and therefore cannot dictate the location of demarcation points.
- Under the Demarcation Point Rule, it is GTE's practice, not its "policy" (as MWAA suggests), which controls whether GTE or the premises owner has discretion to determine the location of demarcation points.
- If the Commission were to grant MWAA's Request, it will have factually preempted the Virginia State Corporation Commission's authority to determine whether MWAA's proposed telecommunications service is shared-tenant service or competitive local exchange service under Virginia law.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 95-149

COMMENTS OF GTE SOUTH INCORPORATED

GTE South Incorporated ("GTE"), by its attorneys and pursuant to Public Notice issued by the Commission in CC Docket No. 95-149 dated September 14, 1995, hereby respectfully files its Comments with regard to the Request for Declaratory Ruling filed on August 14, 1995 by the Metropolitan Washington Airports Authority ("MWAA")

I. INTRODUCTION.

On August 14, 1995, MWAA filed a Request for Declaratory Ruling (the "MWAA Request"). Under 47 C.F.R. § 68.3 (1994) (definition of demarcation point) (the "Demarcation Point Rule"), MWAA seeks a Commission order requiring GTE to establish a single demarcation point with respect to all GTE customers located on the land leased by the Federal Aviation Administration ("FAA") to MWAA at and contiguous to Washington Dulles International Airport. No GTE customers (other than MWAA) have requested a new single demarcation point. On September 8, 1995, GTE filed its "Opposition of GTE South Incorporated to Request for Declaratory Ruling" (the "GTE Opposition"), which is appended as Exhibit A to these Comments.

On September 18, 1995, MWAA served GTE with an undated "Reply of Metropolitan Washington Airports Authority to Opposition of GTE South Incorporated" (the "MWAA Reply"). In addition, both parties filed procedural motions and answers, which have since been resolved and are of no continuing significance.

GTE is a public service corporation under VA CODE ANN. § 56-1 (Michie 1995 Repl. Vol.) providing local exchange telephone service¹ at Washington Dulles International Airport ("Dulles"), including to MWAA, and the surrounding community, as well as to other exchanges in the Commonwealth of Virginia and other states. It holds a Certificate of Public Convenience and Necessity under VA. CODE ANN. § 56-265 (Michie 1995 Repl. Vol.), authorizing it to furnish telecommunications service in its Virginia exchanges, including the Dulles exchange. GTE's Virginia headquarters is in Mechanicsville, Virginia.

MWAA is a body corporate and politic created by an interstate compact between the Commonwealth of Virginia and the District of Columbia to operate and maintain Washington National Airport and Washington Dulles International Airport. The FAA, which administered the airports before MWAA was created, leased the federal land at and surrounding the airports to MWAA for 50 years beginning in 1987. The Dulles community consists not only of Washington Dulles International Airport itself (passenger terminals, freight terminals and associated service buildings), but also includes significant commercial and industrial facilities constructed by and owned by third parties located on land contiguous to the airport and included in the FAA lease

¹MWAA's argues that GTE does not provide local exchange telephone service at Dulles, see MWAA Reply at 10. That untenable position ignores the fact that the area that now comprises Dulles was within the certificated franchise territory of GTE's predecessor in interest well before the FAA even purchased the land which is now Dulles

(collectively, "Dulles") See 49 U.S.C. app. §§ 2451-2461 (1988 & Supp. V 1993). Because MWAA owns facilities for providing telephone service, it is a public utility under VA. CODE ANN. § 56-265.1(b) (1995 Repl. Vol.). Its headquarters is in Alexandria, Virginia.

GTE (or its predecessor in interest) has been the certificated local exchange carrier ("LEC") at Dulles since before the establishment of the airport and has fully supported the development of the airport and adjacent property, both by the FAA and by MWAA. GTE's Dulles exchange outside public switched network comprises over 45 miles of fiber optic and other wiring serving over 4,000 customers.

The factual background of this dispute is recounted in detail in the GTE Opposition, appended as Exhibit A. See GTE Opposition at 2-5.

II. FCC DEMARCATION POINT RULES VEST DISCRETION TO ESTABLISH DEMARCATION POINTS IN GTE, NOT IN MWAA.

As demonstrated in the GTE Opposition, the Commission's Demarcation Point Rule clearly establishes that GTE, and not MWAA, is vested with discretion to determine the location of demarcation points.² In the interest of brevity and because GTE's detailed substantive argument is appended, GTE will only briefly recap that argument. See GTE's substantive pleading for a more complete presentation. See GTE Opposition (Exhibit A) at 6-15.

²MWAA's argument that a change in GTE's negotiating position should somehow control the outcome of this proceeding under the Demarcation Point Rule is without merit. See MWAA Reply at 7. Nothing in the rule even mentions negotiations between the parties, much less makes positions taken by one party to such negotiations outcome determinative. In any event, GTE's unwillingness in 1995 to sell its plant to MWAA is explained by a legal determination by the VSCC staff. See GTE Opposition at 4. In any event, MWAA's position during the negotiations was also inconsistent--having proclaimed a desire to purchase GTE's plant, MWAA backed away from an opportunity to do so in December, 1994. Id.

The Commission's definition of demarcation point reads in relevant part as follows

In multiunit premises in which wiring is installed after August 13, 1990, including additions, modifications, and rearrangements of wiring existing prior to that date, the telephone company may establish a reasonable and nondiscriminatory practice of placing the demarcation point at the minimum point of entry. If the telephone company does not elect to establish a practice of placing the demarcation point at the minimum point of entry, the multiunit premises owner shall determine the location of the demarcation point or points. The multiunit premises owner shall determine whether there shall be a single demarcation point location for all customers or separate such locations for each customer.

Demarcation Point Rule ¶ (b)(2) (emphasis added)

The intent and effect of this rule could not be clearer. It makes three straightforward statements:

- (1) it authorizes telephone companies to adopt a reasonable and nondiscriminatory practice of establishing demarcation points at "the minimum point of entry" (a defined term). If a telephone company does so, its practice controls;
- (2) it authorizes the multiunit premises owner to establish the demarcation point if, and only if, the telephone company does not elect to establish the requisite practice required by the first statement; and
- (3) it imposes a standard upon the premises owner which he must follow in those circumstances, defined by the second statement, in which he controls the demarcation point.

Accordingly, the premises owner's power to influence the location of the demarcation point arises only if it can show that the telephone company's practice is not to establish the minimum point of entry as the demarcation point.

MWAA argues that premises owners^{3/} may choose between a single demarcation point or separate demarcation points for each customer even if the telephone company has established a practice of placing the demarcation point at the minimum point of entry. This position cannot be reconciled with the plain language of the Demarcation Point Rule. MWAA makes no attempt to reconcile its assertion with the rule's unambiguous statement that the premises owner's right to influence the demarcation point is conditional upon the telephone company's failure to establish a reasonable and nondiscriminatory practice of placing the demarcation point at the minimum point of entry. Rather, it asserts that the "penultimate sentence" -- the sentence paraphrased at (2) above -- would become "superfluous" if it was interpreted to mean that the premises owner's right to select the demarcation point was triggered only if the telephone company had not selected the minimum point of entry. MWAA Reply at 3. In reality, however, it is MWAA's position that would render that penultimate sentence "superfluous" and of no effect. In other words, if the third sentence were intended to authorize the premises owner to dictate single or multiple demarcation points in all circumstances, what purpose would be served by the second sentence's conditioning of control by the premises owner upon lack of the requisite practice by the telephone company?

The issue actually requiring analysis to resolve MWAA's argument as to the meaning of the rule is the interplay between its second and third sentences. MWAA offers nothing more than

^{3/}MWAA is not the "premises owner" of the majority of the buildings at Dulles. See infra at 9-10.

an ipse dixit assertion that the second sentence of the rule would be superfluous if the third sentence is read as a limit on the premises owner's discretion in those limited circumstances where he is given control.

In fact, the two provisions work together in an integrated manner to carry out a basic Commission policy objective. The second sentence of the rule -- as paraphrased at (2) above -- sets forth the circumstances in which the premises owner may determine the demarcation point. The third sentence prescribes the manner in which the premises owner is able to exercise that discretion, if and when those circumstances exist. Thus, if the telephone company decides not to establish a demarcation practice and the premises owner is then authorized to determine the demarcation point, the premises owner may choose to establish either "a single demarcation point location for all customers or separate such locations for each customer." The premises owner must treat all tenants in a nondiscriminatory fashion if it is empowered to establish demarcation points: each one must either share a single demarcation point or each one must have its own separate demarcation point. Thus, whether it is the telephone company or the premises owner that chooses the demarcation point location, it must be established in accordance with a reasonable and nondiscriminatory practice.

There was a clear need for the Commission to limit the premises owner's discretion in this manner. Throughout the Inside Wiring proceeding, the Commission was acutely aware of the danger that certain customers might be adversely affected by telephone companies' procedures discriminating against them with respect to demarcation point location in favor of other customers. Applying this concern to the circumstances in which a premises owner was given control of the demarcation point location, the Commission included the third sentence in its rule. Unless the

premises owner were to do so for all tenants, this provision precludes a premises owner from favoring a particular tenant by establishing a demarcation point at the actual point of entry of wiring into that tenant's office. Such an action by the premises owner would transfer the expense of maintaining wiring for that tenant to the telephone company's ratepayers. Under the third sentence of the rule, the premises owner is precluded from adopting such a course for a favored tenant while establishing a single demarcation point for less-favored tenants (e.g., at the actual point of entry of network wiring into the building, thereby requiring those tenants to bear the entire expense of inside wiring). Thus, GTE's reading of the Demarcation Point Rule gives full effect to every component of the rule.

For the first time in its Reply, MWAA seeks to derive support from the rule defining minimum point of entry. MWAA contends that this rule, designed only to define the minimum point of entry, somehow implicitly vests premises owners with a power to establish the demarcation point -- a power that is explicitly denied under the rule directly addressing the location of demarcation points.

The Commission defines minimum point of entry as follows:

"The minimum point of entry is defined as, and may be, either (1) where the wiring crosses the property line or (2) where the wiring enters a building or buildings."

47 C.F.R. § 68.3 (1994) (definition of minimum point of entry).

MWAA suggests that because the rule uses the phrase "building or buildings," the premises owner is somehow authorized to determine whether the demarcation point is at a building or at each individual building. However, the minimum point of entry rule says nothing about who has authority to determine the demarcation point. It simply defines the minimum point of entry.

In doing so, it refers to "building or buildings" as it must since the possibility of multi-building premises exists. Thus, this rule says nothing anything about the premises owner's right to select the demarcation point. It certainly does not eviscerate the rule that expressly defines the rights of premises owners and telephone companies with respect to demarcation point locations. Indeed, the minimum point of entry rule does not even reference the regulation defining demarcation points.

GTE finally notes that MWAA's assertion that the premises owner gets to choose between a building or separate buildings as the demarcation point contradicts its earlier argument that the premises owner has authority to choose any demarcation point, including where "the wiring crosses the property line." See MWAA Reply at 3-4

Thus, the Commission's rules clearly make the premises owner's right to influence the site of the demarcation point wholly dependent upon the existence or nonexistence of the telephone company's reasonable and nondiscriminatory practice of establishing the demarcation point as the minimum point of entry. Here, there is no serious factual dispute that GTE has established and followed a reasonable and nondiscriminatory practice of establishing the minimum point of entry as its demarcation point. MWAA states that the "Authority does not concede that GTE has a non-discriminatory demarcation policy," MWAA Reply at 4. However, it does not dispute GTE's actual practice at Dulles and it certainly supplies no facts to suggest that GTE is behaving in a unreasonable or discriminatory manner.

MWAA's conclusory assertion that any demarcation policy which contains any flexibility is somehow unreasonable or discriminatory is contrary to common sense. Moreover, that assertion ignores the Commission's explicit statement that the "telephone company is not precluded from

establishing reasonable classifications of multiunit premises for purposes of determine which [minimum point of entry criterion] shall apply " 47 C F R. § 68.3 (1994) (definition of "minimum point of entry"). GTE demonstrated at length in its Opposition that its standard ordinary operating practice at all locations is reasonable and non-discriminatory MWAA makes no serious attempt to rebut this. Nor does MWAA make any attempt to dispute that GTE's undeniably consistent, reasonable, and non-discriminatory practice at Dulles is to locate its demarcation points at or near the location at which its network wiring enters the buildings. Throughout its pleadings, MWAA avoids mention of the current factual location of demarcation points at Dulles. Its failure to do so is understandable. Any discussion of those facts would demonstrate that GTE's practice complies fully with the Demarcation Point Rule. This is particularly true because the minimum point of entry inquiry is controlled by GTE's reasonable and non-discriminatory "practice," not, as MWAA would have it, its "policy "

Finally, even assuming arguendo that "premises owners" do have an unconditional right to select demarcation points, MWAA does not have such authority because it is not the relevant premises owner under the Demarcation Point Rule.⁴ The Commission defines "premises" to mean "a dwelling unit, other building, or a legal unit of real property, such as a lot" Demarcation Point Rule. Because the Demarcation Point Rule thereafter concentrates its discussion on buildings, and not land, the Commission surely considered the structures to which telephone service

⁴MWAA's only analytical attempt to demonstrate that it is the relevant "premises owner" under the Demarcation Point Rule was not in any of its pleadings but in a letter from its counsel to GTE. See Letter from Ian N. Volner, Esq., Counsel for MWAA to A. Randal Vogelzang, Esq., GTE Telephone Operations 3 (June 5, 1995) (the "Volner Letter") (attached as Exhibit B). MWAA's assumption that "it is apparently GTE's view that the Federal Government, not the Authority" that is the premises owner is wrong; GTE's view is that the premises owner for purposes of the Demarcation Point Rule is the building owner

would be provided to be the more important "premises " Beyond any doubt, MWAA is not the present owner of the majority of buildings located on MWAA land contiguous to the airport itself. Many of these buildings are themselves multiunit premises, housing many and varied tenants. In fact, the owner of one of these buildings already operates an STS system. By its own admission, MWAA owns, at most, a remainder interest in those buildings which will become possessory at some far future time. See Volner Letter at 3

In the Inside Wiring cases, the Commission never intended that the holder of a mere remainder interest should be able to dictate, to both the telephone company and the premises owner currently entitled to possession, the location of the demarcation points to be established by the former for the benefit of the latter.⁵⁷ Only by using the most strained argument can MWAA proclaim itself to be the present "premises owner" of the majority of buildings at Dulles. The fact that MWAA may hold a long term ground lease is beside the point, because for purposes of present telephone service it is the buildings, not the "dirt " which constitute the most relevant "premises" for application of the Commission's demarcation point rule.

III. FCC DETERMINATION THAT A SINGLE DEMARCATION POINT IS REQUIRED AT DULLES WILL PREEMPT THE VIRGINIA STATE CORPORATION COMMISSION'S AUTHORITY TO APPLY ITS SHARED TENANT SERVICE RULES.

MWAA "freely concede[s] that, insofar as the Authority's shared tenants system ("STS") may be engaged in the provision of intrastate telecommunications services, the regulatory status of the system is determinable by the Virginia State Corporation Commission." MWAA Reply at 1

⁵⁷This is especially true if, as here, the remainder interest is not held in fee but under a lease for a term of years.

n.1. MWAA then asserts that its alleged entitlement to a single demarcation point is a separate issue.

Whether MWAA can require that there be only a single demarcation point at Dulles is not a separate issue from the "regulatory status" of MWAA's proposed telecommunications system at Dulles. If MWAA is permitted to require only a single demarcation point, it will have effectively created a physical and regulatory situation at Dulles which has all the attributes of a service like the current shared-tenant service under Virginia law and none of the attributes of competitive local exchange service under Virginia law. An STS provider under current Virginia law has the right to force the local exchange carrier ("LEC") to establish a demarcation point upstream of the STS provider's STS switch. An individual tenant may request service directly from the LEC. However, if it does so, it must normally obtain (or maintain, if already installed) at its own expense lines from its leased premises to the upstream demarcation point. An STS tenant electing to take local telephone service directly from the LEC cannot demand a demarcation point at the location where the wiring enters its leased premises. FCC grant of the MWAA Request will force this physical telecommunications configuration at Dulles and will be determinative of the relative rights of GTE, its customers, and MWAA. The Virginia State Corporation Commission will be powerless to alter either the physical configuration or that determination of rights.

However, should MWAA be classified as a competitive local exchange carrier ("CAP"^{6/}) under the recently-enacted Virginia statute providing for competition in local telephone markets,

^{6/}The abbreviation "CAP" (from "competitive access provider") will be used to distinguish such a provider from the LEC, which is the local exchange carrier of last resort with the duty to serve all customers within its certificated franchise territory. The Virginia code and proposed VSCC regulations refer to the LEC as the "incumbent local exchange telephone company" and to the CAP as

Footnote continued on next page

MWAA would not have the authority under Virginia law to force either its desired physical configuration or its desired determination of relative rights. See VA. CODE ANN. § 56-265.4(c)(3) (Michie 1995 Repl. Vol.) To be sure, it could build its parallel network and could offer customers local telephone service, but it could not take the anticompetitive steps⁷⁷ proposed in the MWAA Request by so severely disadvantaging GTE,⁸⁰ as the LEC, in serving customers within its certificated territory. MWAA's regulated network would co-exist and compete with GTE's regulated network. Under Virginia law, the only means by which a CAP could cut off a LEC's direct access to its customers would be to institute a proceeding to have the LEC's certificate of public convenience and necessity revoked, which would require proof of a fraud in obtaining its certificate or proof of a willful violation of Virginia public utility laws. VA. CODE ANN. § 56-265.6 (Michie 1995 Repl. Vol.)

Footnote continued from previous page

merely a "local exchange telephone company." The industry-standard LEC and CAP designations are used throughout these Comments to avoid confusion.

⁷⁷That MWAA desired from the outset of its plan to revamp telecommunications services at Dulles airport to stifle competition is not an accusation but a matter of simple fact on the record. The MWAA Requests for Proposals required the successful bidder to eliminate GTE as a competitor:

Moreover, it shall also be the responsibility of the Contractor to purchase and operate all cable plant currently placed at Dulles Airport that is owned by General Telephone and Electronics Company (GTE) or develop an agreement with GTE such that the Developer shall have full unilateral control of all outside and inside cable plant at the facility.

Metropolitan Washington Airports Authority Request for Proposal No. MWAA-R-3-93-02 for the Implementation, Management, and Operation of a Telecommunications Concession Service at Washington National and Washington Dulles Airports (March 19, 1993). If MWAA's deliberate and premeditated plan to eliminate its only competitor does not constitute "stifling competition," GTE is at a loss to state what more egregious conduct would do so.

⁸⁰For a complete presentation of these disadvantages, see the GTE Opposition at 20-22.

In "freely conced[ing that] the regulatory status of [MWAA's proposed] system is determinable by the Virginia State Corporation Commission." MWAA Reply at 1 n.1, MWAA apparently considers that the "regulatory status" of its proposed telecommunications system relates only to the VSCC's authority (if MWAA is a CAP), or lack of authority (if MWAA is an STS provider), to regulate its rates. However, authority to determine rates is only a part of that "regulatory status." The authority to determine terms and conditions under which service can be offered is as important as the mere authority to set just and reasonable rates. Under Commission precedent, the VSCC has exclusive jurisdiction to determine whether MWAA will become an STS provider or CAP by reason of its proposed telecommunications service at Dulles. An FCC determination that MWAA can force GTE and its customers to have but a single demarcation point at Dulles constitutes a de facto preemption of that decision by the VSCC. The Commission, after intensive study, determined that preemption of state regulation of STS service was not warranted. See Policies Governing Provision of Shared Telecommunications Service, 3 F.C.C. Rcd. 6931 (1988). MWAA has presented no justification for reversing the Commission's stance on this point. The Commission should not preempt the VSCC until it has at least given the VSCC a chance to consider the important issues of state law presented above, and then should do so only if the VSCC's determination interferes with the achievement of a valid federal regulatory objective presently within the Commission's statutory power.

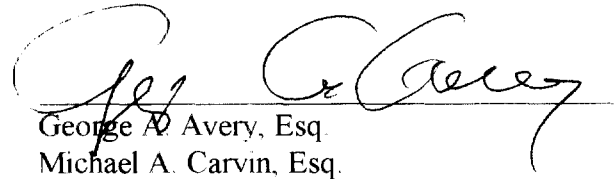
IV. CONCLUSION

For the foregoing reasons, the Commission should dismiss the Metropolitan Washington Airports Authority Request for Declaratory Ruling in CC Docket No. 95-149.

Respectfully submitted,

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**OPPOSITION OF GTE SOUTH INCORPORATED
TO REQUEST FOR DECLARATORY RULING**

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September 8, 1995

SUMMARY

GTE South Incorporated ("GTE"), the local exchange telephone service provider at Washington Dulles International Airport ("IAD") and for other commercial and industrial facilities located elsewhere on federal land contiguous to IAD (collectively, "Dulles") leased to the Metropolitan Washington Airports Authority ("MWAA"), opposes MWAA's August 14, 1995 Request for Declaratory Ruling to establish a single demarcation point for the entire Dulles local exchange network.

The Commission should deny MWAA's Request for Declaratory Ruling because MWAA has failed to state facts sufficient to carry its burden of persuasion, for the following specific reasons:

- The Commission's rule at 47 C.F.R. § 68.3 vests discretion to locate the demarcation point(s) in the telephone company, not the customer, provided that the telephone company establishes a reasonable and nondiscriminatory practice to locate the demarcation point(s) at the minimum point of entry, as is GTE's practice at Dulles.
- The core issue presented by the MWAA Request for Declaratory Ruling is whether, after it installs its intended telecommunications network at Dulles, MWAA will be properly classified as a shared-tenant service ("STS") provider under rules promulgated by the Virginia State Corporation Commission ("VSCC"), or whether it will be a local exchange telephone company under Virginia law. Because this issue is currently before the VSCC and the FCC has specifically committed STS issues to state

commissions, the FCC should deny MWAA's Request for Declaratory Ruling, or at the very least delay its decision until after the VSCC has acted in the first instance.

- Grant of the MWAA Request would not be in the public interest because to do so would stifle any possibility of competition by establishing MWAA as an unregulated telecommunications bottleneck. Moreover, MWAA has failed factually to support its allegations that GTE's operations are or will be detrimental to valid security and public safety concerns.
- Grant of the MWAA Request would constitute a regulatory taking, which the Commission is without power to impose in the absence of clear authority from Congress.

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OPPOSITION OF GTE SOUTH INCORPORATED

GTE South Incorporated ("GTE"), by its attorneys and pursuant to 1.45(a) of the Commission's Rules of Practice and Procedure (47 C.F.R. § 1.45(a) (1994)), hereby opposes the Request for Declaratory Ruling (the "MWAA Request") filed on August 14, 1995 by the Washington Metropolitan Airports Authority ("MWAA").

I. INTRODUCTION

GTE is a public service corporation under VA. CODE ANN. § 56-1 (Michie 1995 Repl. Vol.) providing local exchange telephone service at Washington Dulles International Airport ("Dulles"), including to MWAA, and the surrounding community, as well as to other exchanges in the Commonwealth of Virginia and other states. It holds a Certificate of Public Convenience and Necessity under VA. CODE ANN. § 56-265 (Michie 1995 Repl. Vol.), authorizing it to furnish telecommunications service in its Virginia exchanges, including the Dulles exchange. GTE's Virginia headquarters is in Mechanicsville, Virginia.

MWAA is a body corporate and politic created by an interstate compact between the Commonwealth of Virginia and the District of Columbia to operate and maintain Washington National Airport and Washington Dulles International Airport. The Federal Aviation Administration ("FAA"), which administered the airports before MWAA was created, leased the federal land at and surrounding the airports to MWAA for 50 years beginning in 1987. The Dulles community consists not only of Washington Dulles International Airport itself (passenger terminals, freight terminals and associated service buildings) ("IAD"), but also includes significant commercial and industrial facilities constructed by and owned by third parties located on land leased by MWAA contiguous to IAD (collectively, "Dulles"). See 49 U.S.C. app. §§ 2451-2461 (1988 & Supp. V 1993). Because it owns facilities for providing telephone service, MWAA is a public utility under VA. CODE ANN. § 56-265.1(b) (1995 Repl. Vol.). Its headquarters is in Alexandria, Virginia.

GTE (or its predecessor in interest) has been the certificated local exchange carrier ("LEC") at Dulles since the establishment of IAD and has fully supported the development of the airport and adjacent property, first by the FAA, and, after its creation, by MWAA. GTE's Dulles exchange outside public switched network comprises over 45 miles of fiber optic and other wiring serving over 4,000 customers.

GTE's mutually-supportive relationship with the FAA continued with MWAA after it was created in 1987. Beginning in 1993, however, MWAA announced that it desired to oust GTE as the LEC at Dulles, proposing to assume control of GTE's existing facilities and supplement those facilities with additional facilities constructed and owned by MWAA. It issued a